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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,863	06/19/2006	Mark F. Werner	9261-000005/US/NP	1089
27572	7590	01/10/2008		
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			EXAMINER BLACK, MELISSA ANN	
			ART UNIT 3612	PAPER NUMBER
			MAIL DATE 01/10/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/576,863

**Applicant(s)**

WERNER, MARK F.

**Examiner**

Melissa A. Black

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,9 and 11-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,9,11-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/ are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This Office Action is in response to RCE filed December 5, 2007. Claims 1, 9 and 11-28 are pending in this application and are rejected as set forth below.

#### ***Response to Arguments***

2. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 102***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. **Claims 13 and 14** are rejected under 35 U.S.C. 102(b) as being anticipated by DE 19615540 to Guntrum.

Re Claim 13, Gruntrum discloses a liftgate frame for a motor vehicle liftgate, the liftgate including a window and a tailgate pivotally coupled to the liftgate frame, the window and tailgate each being moveable between open and closed positions, the liftgate frame comprising: an upper frame member adapted to be pivotally coupled to the motor vehicle; a substantially U-shaped tubular lower frame member fixed to the upper frame member forming an uninterrupted ring surrounding an opening, the ring being moveable between open and closed positions; a window hinge coupled to the liftgate frame and adapted to rotatably couple the window to the liftgate frame; a tailgate hinge coupled to the liftgate frame and adapted to rotatably couple the tailgate to the liftgate frame, wherein the opening is adapted to be unobstructed when the window and the tailgate are each in the open position. Re claim 14, Gruntrum discloses the upper frame member

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includes spaced apart vertically extending end segments forming a portion of the ring (see Figures 2-6 and Abstract).

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. **Claims 15 and 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19615540 to Guntrum in view of US Pat # 6,776,449 to Komatsu et al.

Re Claim 15 Guntrum fails to disclose the upper frame member includes an inner header panel fixed to an outer header panel.

Komatsu et al teaches the use of an inner header panel (111) fixed to an outer header panel (110).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to include both inner and outer header panels as taught by Komatsu et al on the device of Guntrum in order to strengthen the header panel.

Re Claim 16, Guntrum fails to disclose the use of a reinforcing member having a first portion fixedly secured to the inner header panel and the outer header panel, the reinforcement member having a second portion fixedly secured to the lower frame member for reinforcing the attachment between said the upper and lower frame members.

Komatsu et al discloses the use of a reinforcing member (145, 146) having a first portion fixedly secured to the inner header panel (111) and the outer header panel (110), the reinforcement member having a second portion fixedly secured to the lower frame member (130, See Figure 12) for reinforcing the attachment between said the upper and lower frame members.

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It would have been obvious to one with ordinary skill in the art at the time the invention was made to include the reinforcement as taught by Komatsu et al on the device of Guntrum in order to strengthen the connection at the hinges of the liftgate.

7. **Claims 17 and 18** are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19615540 to Guntrum and US Pat # 6,776,449 to Komatsu et al in view of DE19713317.

Guntrum and modified fails to disclose the reinforcement member extends into the tubular lower frame member.

DE 19713317 teaches the reinforcement member extends into the tubular lower frame.

It would have been obvious to do this to strengthen the connection of the reinforcement and the lower frame.

Re Claim 18 Guntrum as modified by Komatsu et al teaches the first portion of the reinforcement member extends perpendicular from the second portion and has a substantially L-shaped cross-section (See Figures 14 and 16 of Komatsu et al. Figure 16 is a cross-sectional view of framing 111 taken at line 16 in Figure 14. The bottom portion of the reinforcement has the same cross-sectional view as that portion of the lower frame, which is substantially L-shaped).

8. **Claim 19** is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19615540 to Guntrum in view of US Pat # 6,719,356 to Cleland et al.

Guntrum fails to disclose the use of a control module coupled to coupled to said liftgate, adapted to output signals indicative of the position of said liftgate frame, the window and the tailgate.

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Cleland et al teaches the use of a control module (41) coupled to the liftgate to indicate the position of the liftgate frame, the window and the tailgate.

It would have been obvious to one with ordinary skill in the art at the time the invention was made to use the control module as taught by Cleland et al on the device of the combination in order to prevent an obstruction from being pinched in the frame, liftgate or window during electronic operation.

9. **Claim 20** is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19615540 to Guntrum in view of US Pat # 6,983,968 to Brauer et al or US Pat # 7,032,958 to White et al or US Pat # 7,025,166 to Thomas.

The above is hereby referenced. Guntrum fails to disclose the liftgate frame further including wiring extending through the tubular lower frame.

Brauer et al teaches the use of having the wire in the tubular framing (Column 1, ll. 54-61).

White et al teaches the use of having the wire in the tubular framing (Column 4, ll. 13-15).

Thomas teaches the use of having the wire in the tubular framing (Column 7, ll. 5-13).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to have the wiring of the liftgate to be placed in the tubular frame as taught by Brauer et al, White et al and Thomas on the device of Guntrum in order to protect the wire from damage during simple use.

**RE CLAIMS 1, 9, 11, 12 and 21-27**, the above is hereby referenced.

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10. **Claim 28** is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19615540 to Guntrum and US Pat # 6,776,449 to Komatsu et al in view of US Pat # 6,053,562 to Bednarski.

Guntrum fails to disclose the lifgate frame is formed by tubular hydroforming.


Bednarski teaches that the liftgate frame (12) can be formed by tubular hydroforming (Claim 2).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to use tubular hydroforming as taught by Bednarski on the device of Guntrum, in order to form thin cross-sections and rounded corners.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa A. Black whose telephone number is (571) 272-4737. The examiner can normally be reached on M-F 7:00-3:30 ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

  
DENNISH. PEDDER  
PRIMARY EXAMINER  
AU 3612 1/7/08

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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